

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

TRUSTEES OF THE OPERATIVE
PLASTERERS' and CEMENT MASONS'
INTERNATIONAL ASSOCIATION
LOCAL 262 WELFARE FUND,
ANNUITY FUND, PENSION FUN and
APPRENTICESHIP TRAINING FUNDS
and OPERATIVE PLASTERERS' and
CEMENT MASONS' INTERNATIONAL
ASSOCIATION, LOCAL 262,

Plaintiffs,

-against-

ORDER ADOPTING R&R
16-CV-5445 (DRH)(ARL)

VARIED CONSTRUCTION CORP.,

Defendant.

-----X

HURLEY, Senior District Judge:

INTRODUCTION

Presently before the Court is the Report and Recommendation, dated February 27, 2018, of Magistrate Judge Arlene R. Lindsay recommending that the motion of Plaintiffs for default judgment be granted and that Plaintiffs be awarded damages in the total amount of \$23,410.17, consisting of \$11,403.42 in unpaid contributions, \$1,114.25 in Union Dues and International Assessments, \$4,181.25 in interest on unpaid contributions, \$4,181.25 in liquidated damages, \$2,050.00 in attorneys' fees, and \$480 in costs. Judge Lindsay further recommends that this Court issue an order directing Defendant to cooperate with Plaintiffs' audit request for the time period of October 1, 2010 to September 30, 2016. The time to file objections has expired, and no objections have been filed.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72, this Court has reviewed the Report and Recommendation for clear error, and finding none, now concurs in both its reasoning and its

result. Accordingly, the Court adopts the February 27, 2018 Report and Recommendation of Judge Lindsay as if set forth herein. Accordingly,

IT IS HEREBY ORDERED that Plaintiffs' motion for a default judgment against defendant Varied Construction Corp. is granted and that Plaintiffs be awarded damages in the total amount of \$23,410.17 as against Defendant. And if after completion of the audit for the period of October 1, 2010 to September 30, 2016, Plaintiffs identify additional unpaid contributions then Plaintiffs will be permitted to reopen this case and seek an amended judgment for an deficiency and related damages; and

IT IS FURTHER ORDERED THAT Defendant, together with its officers, employees, and agents acting on its behalf, is required to permit and cooperate in a complete audit of Defendant's books and records including its payroll records and cash disbursement journals by Plaintiff or its agents for the period of October 1, 2010 to September 30, 2016.

The Clerk of Court is directed to enter judgment accordingly and to close this case.

Dated: Central Islip, N.Y.
March 28, 2018

/s/ Denis R. Hurley
Denis R. Hurley
United States District Judge